

Application No. 10/112,184

Art Unit: 3763

REMARKS

Claims 1-4 and 9-12 are cancelled without prejudice to Applicant's right to file a continuation application with respect to the cancelled claims.

Claims 5-8 are pending.

Specification:

The specification has been amended to correct obvious typographical errors pointed out by the Examiner. No new matter is added.

103 Rejection:

Claims 5-8 stand rejected as obvious over Werne in view of Loos et al. The Examiner states that Werne fails to disclose a distal tip having a hollow cavity, but the Examiner concludes that Loos et al. teaches a device with a distal tip of the needle having a hollow cavity which is at least partially filled with material which will leave an artifact. The Examiner cites column 6, lines 24-41 of Loos et al. to support this conclusion.

It is respectfully urged that the Examiner has mischaracterized Loos et al. at column 6, lines 24-41, and reads into Loos et al. that which is not disclosed.

The Examiner is respectfully requested to reconsider Loos et al. Loos et al. at lines 24-41 does not appear to disclose a non-metallic elongated tubular needle having a port on the elongated needle, and a sharpened distal tip attached to a distal end of the needle, the distal tip having a hollow cavity, as recited in Claim 5. Instead, Loos et al. at lines 24-41 of column discloses a hollow needle with a second phantom near its free end (with reference to Figure 8).

Accordingly, even if one were to combine the references as suggested by the Examiner, it is respectfully urged that the resulting combination would not disclose the biopsy device recited in Claims 5-8. If the Examiner maintains the rejection, the Examiner is respectfully requested to clarify how Loos et al. teaches the invention recited in Claims 5-8.

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In view of the above, Applicants submit the above referenced application is now in condition for allowance. Therefore, Applicants respectfully request that the Examiner reexamine and favorably reconsider Applicants claims in the form of a Notice of Allowability.

Respectfully submitted,

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